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A LEGAL PROFESSIONAL ASSOCIATION

35765 Chester Road
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December 2, 2002

VIA CERTIFIED MAIL NO. 7002 0860 0007 7348 4671
RETURN RECEIPT REQUESTED

Ms. Deena Sheppard-Johnson
SR-6J
United States Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

RE: *Chemical Recovery Systems Super Fund Site in Elyria, Ohio; Volumetric Ranking*

Dear Ms. Sheppard-Johnson:

This letter is being submitted for the record in regard to the Chemical Recovery Systems Super Fund Site located in Elyria, Ohio, and the revised copy of the volumetric ranking prepared for the site by the U.S. EPA and its contractor, TechLaw, Inc. (hereinafter "TechLaw").

Please note that the volumetric ranking presumes that Ross Incineration Services, Inc. (on behalf of Robert Ross & Sons, Inc., hereinafter referred to as "RISI") disposed of 249,540 gallons of waste at the Chemical Recovery Systems site in Elyria, Ohio. This presumption is false. Furthermore, this presumption can only be supported by an erroneous reading of RISI's 104(e) response. The degree of miscalculation is so great as to disparage the methodology upon which the ranking is based.

The data which refers to RISI contained on the TechLaw disk forwarded to me by your office lists 28 separate entries for delivery of waste to the Super Fund site commencing on December 8, 1964 and running through May 25, 1976. However, a review of these entries does not support the conclusion that the waste was delivered to the Chemical Recovery site by RISI. Rather, the documents enclosed with the 104(e) submission establish that the vast majority of the waste in question was picked up by RISI from the Chemical Recovery site (*aka* Obitts Chemical Company or "Obitts") and delivered to RISI's site in Grafton, Ohio, where it was incinerated.

The portion of the volumetric text which allegedly substantiates RISI's deliveries begins on page 94. The first entry is derived from a document dated December 8, 1964 and Bates numbered RIS 000109. That

document is a bill submitted by RISI to Obitts Chemical Company for the disposal of sludge thinner and drums. The document when read correctly refutes TechLaw's conclusion that 15,500 gallons of sludge and 28 drums of sludge, totaling another 1,540 gallons, were brought to the Obitts site by RISI. Rather, as the December 8, 1964 document clearly evidences, Obitts is being charged for sludge which is being picked up by RISI and delivered to its site in Grafton, Ohio, for incineration. ***This sludge was not delivered by RISI to the Chemical Recovery site. Therefore, the December 8, 1964 entries must be eliminated from the volumetric analysis.***

The next two entries in the TechLaw analysis concern 44 drums of sludge and 18,000 gallons of sludge RISI picked up at Obitts Chemical Company and billed to Obitts Chemical Company on January 4, 1965. I refer you to the document Bates numbered RIS 000108. Once again, please note, Obitts Chemical Company is being billed by RISI for sludge that RISI incinerated. This document does not evidence that Obitts Chemical Company is being charged for sludge that was delivered to it by RISI. In fact, this makes little sense. ***Therefore, the January 4, 1965 entries should be eliminated from the volumetric analysis.***

The next entry is dated July 23, 1966 and is evidenced by the document Bates numbered RIS 000105. Again, this is a bill from RISI to Obitts Chemical for 24 barrels of oil at \$3.00 per barrel. This document does not evidence that Ross delivered any of these barrels of oil to Obitts Chemical at that time. ***Therefore, the July 23, 1966 entry should be eliminated from the volumetric analysis.***

The next three entries are dated August 25, 1966 and are evidenced by the document Bates numbered RIS 000104. Again, this document evidences drums of sludge and oil that are to be picked up at Obitts Chemical and delivered to RISI for incineration. Nowhere on this document is there evidence that RISI delivered oil or sludge to Obitts Chemical. ***Therefore, these August 25, 1966 entries likewise should be eliminated from the volumetric analysis.***

The next entry is from a document dated October 28, 1966. The document is Bates numbered RIS 000103. This document indicates that 4,000 gallons of waste were picked up by RISI from Obitts Chemical Company on or about October 15, 1966. This document evidences a pickup by RISI and not a delivery by RISI to Obitts Chemical. ***As a result, this October 28, 1966 entry should likewise be eliminated from the volumetric analysis.***

The next two entries are from a document dated January 17, 1967 and Bates numbered RIS 000100. The document evidences that the gallons of sludge and drums of sludge were picked up by RISI from, and not delivered to, Obitts Chemical. As a general statement which applies to all entries in regard to sludge, RISI never delivered sludge to Obitts Chemical. RISI picked up many gallons of sludge from Obitts Chemical and incinerated the sludge at the RISI incinerator at Grafton, Ohio. ***Therefore, these two January 17, 1967 entries which refer to sludge should be eliminated from the volumetric analysis.***

The next entry is from a document dated March 16, 1967 and Bates numbered RIS 000098. Again, the document evidences that the gallons of sludge and drums of sludge are being picked up by RISI from Obitts Chemical and not being delivered to Obitts Chemical by RISI. ***These two March 17, 1967 entries should be eliminated from the volumetric analysis.***

The next entry is derived from a document dated May 20, 1967 and Bates numbered RIS 000096. The document evidences that the 4,800 gallons of sludge are being picked up by RISI from Obitts Chemical

for treatment at the RISI incinerator in Grafton, Ohio. This sludge is not being delivered by RISI to Obitts Chemical for disposal. **Therefore, this May 20, 1967 entry should be eliminated from the volumetric analysis.**

The next two entries are taken from a document dated April 30, 1972, Bates numbered RIS 000069. Unquestionably, this is a bill from RISI to Obitts Chemical Company for the treatment of 29,400 gallons of waste, at three cents (\$.03) a gallon, and 120 drums of waste at seventy-five cents (\$.75) a gallon. Simply put, this is a bill from RISI to Obitts Chemical for RISI's incineration of waste. This bill does not support the conclusion that evidences a delivery by RISI to Obitts Chemical Company of any of the waste referred to therein. **Therefore, these two April 30, 1972 entries should be eliminated from the volumetric ranking.**

The next entry is a document dated June 30, 1974, Bates numbered RIS 000061, and is a bill from RISI to Obitts Chemical for the treatment of 29,400 gallons of waste. Obitts Chemical is being charged three cents (\$.03) a gallon for a total bill of eight hundred eighty-two dollars (\$882.00). This document does not evidence that Obitts is being charged for waste RISI is taking to it, rather Obitts is being charged for waste picked up by RISI and incinerated at RISI's facility in Grafton, Ohio. **Therefore, this June 30, 1974 entry should be eliminated from the volumetric analysis.**

The next entry is allegedly derived from a document dated October 1, 1974, for waste totaling 29,400 gallons. I do not know from where this information is derived. I do have three pick up and delivery tickets from RISI, which you have been provided with, Bates numbered RIS 000058 through RIS 000060. Those documents evidence a waste pickup from B.F. Goodrich Chemical and, arguably, transported by RISI to Chemical Recovery. However, even totaling the gallonage represented by the three documents which run from an unidentified October, 1974 date to October 24, 1974, the gallonage only comes to 16,780 gallons, and not the 29,400 gallons listed in the volumetric analysis. **Again, as pointed out to you in my earlier submissions, this gallonage dated October 1, 1974 should be eliminated from the volumetric analysis because RISI, in this instance, was merely serving as a transporter between B.F. Goodrich and Chemical Recovery.**

The next three entries are dated November 1, 1974. There is no document submitted to the U.S. EPA by RISI which bears that date. These three entries may be derived from three RISI invoices for the month of October, 1974, with a payment due date of November 20, 1974. For example, document Bates numbered RIS 000027 lists 63 five gallon pails of waste RISI disposed of and charged to B.F. Goodrich. If one multiplies 63 by 55 gallons (inappropriately because these are five-gallon pails of waste), one arrives at the number 3,465 gallons. However, there is no evidence that this waste which was picked up from B.F. Goodrich Chemical Company was ever delivered to Obitts Chemical Company. Therefore, even if this is the document the analysis is based upon, it must be eliminated.

The November 1, 1974 entry may be derived from the document Bates numbered RIS 000034. That document, likewise, lists 63 drums of waste as well as 29,400 gallons of waste. This document could account for the 3,465 gallons referred to above as well. However, once again, this is an invoice from RISI to Obitts Chemical, charging Obitts Chemical for the treatment of the drums and the gallons of waste. This document evidences that this waste was picked up by RISI from Obitts and incinerated at RISI's Grafton, Ohio site. **Therefore, if this is the document the analysis is based on, the November 1, 1974 entries should be eliminated.**

There is a document Bates numbered RIS 000036 for the disposal of 88 drums of Xylol wash. This document evidences that RISI is charging Obitts five dollars (\$5.00) per barrel for the incineration. This document alone simply evidences that RISI picked up 88 drums of Xylol wash from Obitts Chemical Company and charged Obitts for its disposal at RISI. **Therefore, this November 1, 1974 entry should be eliminated from the volumetric analysis.**

The next two entries are dated April 1, 1975, but are apparently derived from a RISI invoice document, dated March, 1975, with payment due on April 20, 1975, Bates numbered RIS 000056. This document does indicate that 80 drums of trichlor were sold to Chemical Recovery Systems, with the drums to be returned to RISI. However, the document also indicates that RISI incinerated 19,600 gallons of waste for Chemical Recovery and was charging for the treatment at four cents (\$.04) a gallon. Therefore, while the 4,400 gallons of trichlor may remain on the volumetric ranking, **the entry for 19,600 gallons of waste, dated April 1, 1975, should be eliminated from the volumetric analysis.**

The next entry is dated April 9, 1975, and appears to be an entry derived from RISI document Bates numbered RIS 000053. This document is unclear as to whether or not it evidences a pick up or a delivery of thirty-eight 55-gallon drums (2090 gallons) of chlorinated solvents. However, arguably, it could indicate a delivery. Nonetheless, in and of itself, the document is inconclusive. Therefore, the 2,090 gallons of chlorinated solvents may remain on the volumetric analysis.

The next two entries are from a document dated May 1, 1975. Although there is no document that RISI submitted which bears that date, this waste is obviously taken from RISI document Bates numbered RIS 000054, dated April, 1975, payment due May 20. Once again, Chemical Recovery Systems is being charged two dollars and fifty cents (\$2.50) per drum for the treatment of 18 drums of waste (multiplied by 55, totaling 990) and 23,600 gallons of waste at four cents (\$.04) a gallon. This is an invoice whereby RISI is charging Chemical Recovery for the incineration of the waste. This document does not evidence that this waste was delivered by RISI to Chemical Recovery. **Therefore, these May 1, 1975 entries should be eliminated from the volumetric analysis.**

The final two entries are apparently taken from a document dated May 25, 1976, which appears to be a document Bates numbered RIS 000050. However, a review of this document reveals that only nine 55 gallon drums of solvent or 495 gallons total were sold to Chemical Recovery. RISI actually picked up eighty 55 gallon drums of flammable liquid for which it charged Chemical Recovery four dollars and fifty cents (\$4.50) per drum for its treatment at RISI's incinerator in Grafton, Ohio. Therefore, while the 495 gallon entry may remain on the volumetric analysis, **the May 25, 1976 entry for 4,400 additional gallons must be removed.**

In conclusion, a review of the information contained on the TechLaw analysis, as evidenced by the CD supplied to RISI by the U.S. EPA, and a review of the 104(e) documents leads to the conclusion that RISI potentially delivered only 6,985 gallons to the Chemical Recovery site and most probably acted in the role of transporter as RISI does not generate solvents in its incineration process. TechLaw and the U.S. EPA have erroneously included in its volumetric analysis 242,555 gallons of waste which the RISI documents evidence were waste picked up by RISI from the Obitts/Chemical Recovery site and delivered to RISI's Grafton, Ohio site and incinerated. Therefore, RISI objects to the conclusions reached by the U.S. EPA and TechLaw and further requests that the U.S. EPA calculate a new volumetric ranking based upon

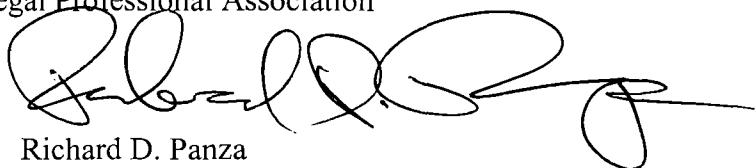
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the correct interpretation of the RISI documents set forth above. If such a recalculation is made consistent with the information set forth above, RISI will be placed somewhere between Mid-American and National Cam, representing approximately less than 0.131% of the waste delivered to the Chemical Recovery site.

If you have any questions or comments in regard to this correspondence, please do not hesitate to contact me directly.

Sincerely,

WICKENS, HERZER, PANZA, COOK & BATISTA
A Legal Professional Association

A handwritten signature in black ink, appearing to read 'Richard D. Panza', with a long horizontal flourish extending to the right.

By: Richard D. Panza
Attorney for Ross Incineration Services, Inc.,
on behalf of Robert Ross & Sons, Inc.

RDP/kac

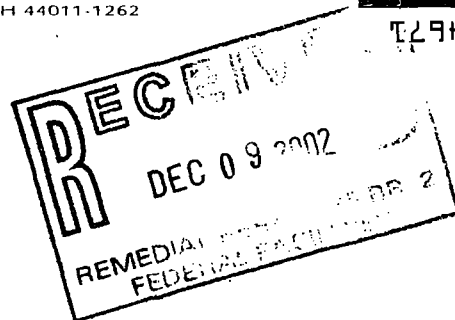
cc: Ms. Mary H. Gerding
Thomas C. Nash, Esq.

3708-025

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MS DEENA SHEPPARD-JOHNSON

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